

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ALEXANDER PRESNIAKOV,

Plaintiff,

No. C 04-00831 JSW

v.

RETAIL DISTRIBUTORS LLC, et al.,

Defendants.

**ORDER DISCHARGING ORDER
TO SHOW CAUSE AS TO WHY
COUNSEL SHOULD NOT BE
HELD IN CONTEMPT OF COURT
AND IMPOSING SANCTIONS**

On February 18, 2009, this Court issued an Order to Show Cause as to why Plaintiffs counsel should not be held in contempt for failing to comply with this Court's Order of February 6, 2009, directing Plaintiff's counsel to file a declaration by February 13, 2009, setting forth an explanation of exactly when Mr. Presniakov was informed of his obligation to appear at the status conference and why the Court received conflicting explanations at the hearing.

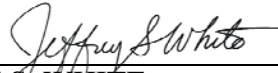
The Court has received counsel's written response to that Order. That declaration does not clarify the sequence of events as to when Mr. Presniakov was informed he had appear in person at the February 6, 2009 hearing, as required by the Court's Order dated January 23, 2009. Based on the representations in the response, the Court cannot find that counsel's failure to comply with that deadline was a willful violation of the Court's Order, such that a contempt sanction should be imposed. Accordingly, the Order to Show Cause as to why he should not be held in contempt is discharged and the hearing set for March 20, 2009 is VACATED.

Although the Court concludes that a contempt sanction is not warranted, the Court does find that Counsel's declaration does not explain why the February 13, 2009 deadline to file a declaration was not calendared and fails to justify why counsel did not comply with a direct

1 order to file a timely declaration or seek an extension of time to comply with the Court's order.
2 This is not the first instance where counsel has failed to comply with this Court's Orders, and
3 the Court does find that sanctions are warranted. Accordingly, counsel is HEREBY ORDERED
4 to pay \$1,000 to the Clerk of the Court within ten days of the date of this Order.

5 **IT IS SO ORDERED.**

6 Dated: March 2, 2009

7 
8 _____
9 JEFFREY S. WHITE
10 UNITED STATES DISTRICT JUDGE
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28